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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/014,278	12/11/2001	Gunnar Hedin	980.1123US01	2334
38846	7590	11/04/2004	EXAMINER	
CARLSON, CASPERS, VANDENBURGH & LINDQUIST 225 SO. 6TH STREET SUITE 3200 MPIS, MN 55402			LEE, HWA S	
			ART UNIT	PAPER NUMBER
			2877	

DATE MAILED: 11/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/014,278	HEDIN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Andrew Hwa S. Lee	2877	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 October 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9,11-38 and 40-48 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9,11-38 and 40-48 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a):  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>8/6, 8/24</u> .   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Double Patenting*

1. Claims 1-9, 10-38 and 40-48 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims of copending Application No. 10/015,151, and No. 10/014,277. Although the conflicting claims are not identical, they are not patentably distinct from each other because the devices claimed in the copending applications inherently practice the methods claimed.
2. This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-9, 11, 16-23, 34, 37-42, 47, and 48 are rejected under 35 U.S.C. 102(b) as being anticipated by Snyder (US 4,173,442).

Snyder shows an apparatus and method for determination of wavelength comprising:

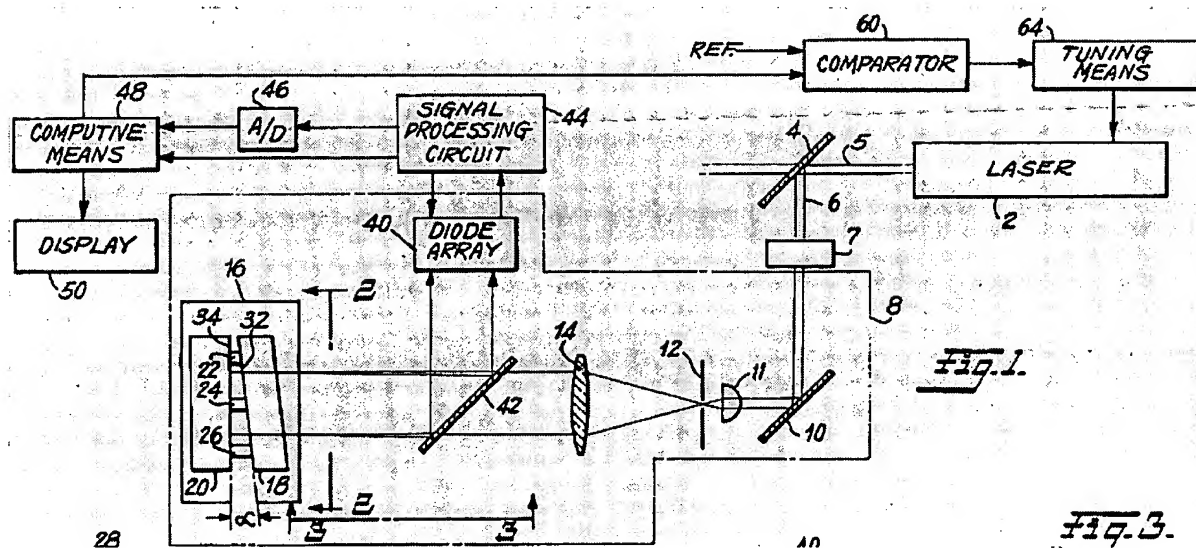
a fringe-producing optical element (16) to generate an interference pattern from light derived from the output light beam, the fringe producing optical

Art Unit: 2877

element being a non-parallel etalon and the interference pattern defining a pattern period;

a detector unit (40, 44) disposed to detect the interference pattern, the detector unit including at least three detector elements disposed to detect respective portions of the pattern period;

a control unit (60,64) coupled to receive detection signals from the detector unit and adapted to generate a laser frequency control signal in response to the detection signals from the at least three detector elements for controlling the laser frequency.



With regards to claims 2-6, the use of an array of photodetectors would meet the limitations of claims 2-6.

With regards to claim 18, the choosing of one of a number of UTI standard operating wavelengths is well know as admitted by the applicant.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Snyder as applied to claim 1 in view of Russell (6,151,114).

The use of a non-parallel etalon having at least one curved surface is not shown by Snyder. Russell shows the use of a non-parallel etalon having at least one curved surface. At the time of the invention, one of ordinary skill in the art would have used a non-parallel etalon having at least one curved surface in order to differentiate the effects of the arrival angle of the beam from the wavelength of the beam.

7. Claims 22-25, 43-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Snyder as applied to claims 1 and 34 in view of DeAndrea et al (5,515,468).

Snyder does not expressly show the elements of the laser. DeAndrea shows elements of the laser including the power source and the collimating and focusing elements. At the time of the invention, one of ordinary skill in the art would have used the teaching of Snyder in the laser of DeAndrea in order to have a stable laser source.

8. Claims 26-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Snyder in view of Sharma et al (6,331,906).

Art Unit: 2877

Snyder does not show the element of the communications systems. Sharma et al show the claimed elements. At the time of the invention, one of ordinary skill in the art would have used Snyder with Sharma et al in order to have communication system that has a stable light source.

***Response to Arguments***

9. Applicant's arguments with respect to claims 1-9, 11-38, 40-48 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew Hwa S. Lee whose telephone number is 571-272-2419. The examiner can normally be reached on Tue-Fr.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory J. Toatley Jr. can be reached on 571-272-2800 ext 77. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2877

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Andrew Hwa S. Lee', with a large, stylized initial 'A'.

Andrew Hwa S. Lee  
Examiner  
Art Unit 2877